

**COUNTY COUNCIL OF FREDERICK COUNTY  
MEETING MINUTES  
Tuesday, May 5, 2015**

Council Members Bud Otis, President; M.C. Keegan-Ayer, Vice-President; Tony Chmelik, Treasurer; Kirby Delauter, Jerry Donald, Jessica Fitzwater and Billy Shreve were present for the meeting.

Also present were Ragen Cherney, Council Chief of Staff; Michael Chomel, County Attorney's Office; Joyce Grossnickle, Administrative Officer and Patti Morrow, Recording Secretary.

Council President Otis called the meeting to order at 4:30 p.m. in the first floor hearing room, Winchester Hall, 12 East Church Street, Frederick, Maryland.

The meeting began with an invocation followed by the recitation of the Pledge of Allegiance.

**Public Comments**

- Patrick Schempp
- Carl Thomas
- John Gretz

**Council Member Comments**

Comments were provided by Council Members Delauter, Donald, Fitzwater, Keegan-Ayer and Shreve.

**CONSENT AGENDA**

The following item was considered on the consent agenda:

- Board of Education Current Expense Fund Amendments #3-15 and #4-15

*Council Member Keegan-Ayer moved to approve the consent agenda as presented. Council Member Donald seconded the motion that passed 6-0-1 with Council Member Shreve abstained.*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

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**BUSINESS ITEMS****Approval of Minutes**

*Council Member Keegan-Ayer made a motion to approve the April 20, 2015, minutes. Council Member Fitzwater seconded the motion that passed 6-0-1 with Council Member Shreve abstained.*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

**Affirm Confirmation of County Executive's Appointees - Joyce Grossnickle, Administrative Officer****Frederick County Commission on Aging**

Ms. Grossnickle presented County Executive Gardner's appointments she recently made to the Frederick County Commission on Aging. Ms. Grossnickle requested the Council's confirmation of the appointments.

*Council Member Keegan-Ayer moved to affirm the appointments of Ms. Dianne Lewis to serve for a term to expire June 30, 2016, and Ms. Dorothy (Tish) Raff to serve for a term to expire June 30, 2017. Council Member Donald seconded the motion that passed 6-0-1 with Council Member Shreve abstained.*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

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Maryland Fire Service Personnel Qualifications Board, Inc.

Ms. Grossnickle presented County Executive Gardner's appointments she recently made to the Maryland Fire Services Personnel Qualifications Board, Inc. Ms. Grossnickle requested the Council's confirmation of the appointments.

*Council Member Keegan-Ayer moved to affirm the appointments of Battalion Chief Michael Crawford, as the new primary representative; and Lt. Christopher Mullendore to continue as the alternate representative. Council Member Donald seconded the motion that passed 6-0-1 with Council Member Shreve abstained.*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

**Affirm the Confirmation of the County Executive's Nominees for the Chesapeake and Ohio (C&O) Canal National Historical Park Commission – Joyce Grossnickle, Administrative Officer**

Ms. Grossnickle presented County Executive Gardner's nominees for the C&O Canal National Historical Park Commission. Ms. Grossnickle requested the Council's confirmation of the nominees.

*Council Member Keegan-Ayer moved to affirm Mr. Walter Stull and Mr. Joseph Adkins as Frederick County's nominees for the C&O Canal National Historic Park Commission. Council Member Donald seconded the motion that passed 7-0.*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

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**Presentation on the Clean Chesapeake Coalition (CCC) – Charles MacLeod, Funk & Bolton, P.A.**

Mr. Charles MacLeod, Esquire, and Mr. Jeff Lundquist, Esquire, Funk and Bolton, P.A.; and Commissioner Wilbur Levingood, Caroline County, gave a presentation on the CCC.

Council Member Fitzwater requested a worksession be held to discuss the county's MS4 permit and Total Maximum Daily Load Watershed Implementation Plan.

*This item was informational no action was taken.*

**Consideration of Proposed Amendment to the Rules of Procedure of the County Council to Include a Code of Civility – Council Member Jessica Fitzwater**

Council Member Fitzwater introduced the proposed resolution.

*Council Member Fitzwater moved to approve the resolution amending the Rules of Procedure of the County Council to include a Code of Civility. Council Member Keegan-Ayer seconded the motion.*

*Council Member Fitzwater moved to approve the resolution as amended by the following change:*

*(2) Be Responsible*

*(E) ~~Use~~ **Encourage the use of** language that is free from political bias and is relevant to the issue or matter at hand.*

*Council Member Chmelik seconded the motion to amend the resolution that passed 6-0-1 with Council Member Shreve abstained.*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

*Council Member Fitzwater amended the amendment to include:*

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*(2) Be Responsible*

*(D) Exercise your rights and responsibilities as a citizen. Encourage **others** to become informed and involved.*

*Council Member Chmelik seconded the motion that passed 6-0-1 with Council Member Shreve abstained.*

<b>Council Members</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent/ Abstain/ Present</b>
<i>District 1 - Donald</i>	X		
<i>District 2 - Chmelik</i>	X		
<i>District 3 - Keegan-Ayer</i>	X		
<i>District 4 - Fitzwater</i>	X		
<i>District 5 - Delauter</i>	X		
<i>At-large - Otis</i>			
<i>At-large - Shreve</i>			X
<i>Presiding Officer - Otis</i>	X		

*Council Member Fitzwater moved to adopt the resolution as amended two times. Council Member Keegan-Ayer seconded the motion that passed 6-0-1 with Council Member Shreve abstained.*

<b>Council Members</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent/ Abstain/ Present</b>
<i>District 1 - Donald</i>	X		
<i>District 2 - Chmelik</i>	X		
<i>District 3 - Keegan-Ayer</i>	X		
<i>District 4 - Fitzwater</i>	X		
<i>District 5 - Delauter</i>	X		
<i>At-large - Otis</i>			
<i>At-large - Shreve</i>			X
<i>Presiding Officer - Otis</i>	X		

**Introduction of a Bill to Update the Frederick County Building Code – Chapter 1-6 – Council President Bud Otis (On behalf of the County Executive)**

Council President Otis stated for the record: Bill No. 15-03: A bill to update the Frederick County Building Code by adopting the 2015 Editions of the International Building Code and International Residential Code, including the amendments adopted by the state of Maryland in the Maryland Building performance Standards (COMAR 05.02.07), and subject to the local amendments described Section 1-6-18A and Section 1-6-18B.

Mr. Gary Hessong and Mr. Brian Mitchell, Community Development Division; and Ms. Kathy Mitchell, Office of the County Attorney, provided information relevant to the bill.

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Questions and comments ensued.

Council Member Otis advised the public that Bill No. 15-03 would be scheduled for a public hearing on Tuesday, June 16, 2015.

**Introduction of a Bill to Update the Frederick County Electrical Code – Chapter 1-7 – Council President Bud Otis (On behalf of the County Executive)**

Council President Otis stated for the record: Bill No. 15-04: A bill to update the Frederick County Electric Code by adopting the 2014 Edition of the National Electric Code.

Mr. Gary Hessong and Mr. Brian Mitchell, Community Development Division; and Ms. Kathy Mitchell, Office of the County Attorney, provided information relevant to the bill.

Questions and comments ensued.

Council Member Otis advised the public that Bill No. 15-04 would be scheduled for a public hearing on Tuesday, June 16, 2015.

**Introduction of a Bill to Update the Frederick County Plumbing Code – Chapter 1-14 – Council President Bud Otis (On behalf of the County Executive)**

Council President Otis stated for the record: Bill No. 15-05: A bill to update the Frederick County Plumbing Code by adopting the 2014.5 Edition of the International Plumbing Code, subject to the local amendments described in Section 1-14-57.

Mr. Gary Hessong and Mr. Brian Mitchell, Community Development Division; and Ms. Kathy Mitchell, Office of the County Attorney, provided information relevant to the bill.

Questions and comments ensued.

Council Member Otis advised the public that Bill No. 15-05 would be scheduled for a public hearing on Tuesday, June 16, 2015.

**Public Hearings**

**To Consider Bill #15-01 Concerning Amendment of the Frederick County Personnel Rules (Rules) – Council President Bud Otis (On behalf of the County Executive)**

A public hearing was held, as duly advertised, on an amendment to the Frederick County Personnel Rules.

Mr. Mitch Hose, Human Resources Division, reviewed the changes and additions to the rules.

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Public comment was heard from:

- John Neary, President, Local 3666, Career Fire Fighters Association of Frederick County

Council Member Otis noted the record would be closed and the third reading of Bill #15 -01 would occur at a future meeting.

(Council took a break at 6:40 p.m. and reconvened at 7:00 p.m.)

**To Consider a Resolution Establishing the FY 2016 Property Tax Rates – Diane Fox Director, Department of Treasury, Finance Division**

A public hearing was held, as duly advertised, on the proposed resolution to establish the FY 2016 property tax rates.

Ms. Fox and Mr. Doug Browning, Chief Administrative Officer, presented the County Executive's proposed FY 2016 general property tax levy of \$1.06 per \$100 assessment; and the FY 2016 general property tax levy (tax differential property tax rates) for The City of Frederick at \$0.9340 and for the Town of Myersville at \$0.9302.

Public comment was heard from:

- Joe Parsley
- Jennifer Giove
- Mark Schapp
- Jason Miller
- Mary Posey
- John Gretz
- Connie Onsplaugh

It was noted the FY 2016 Property Tax Rates would be decided on Thursday, May 21, 2015, at 4:30 p.m.

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**Public Comments**

- John Gretz

**Council Comments**

The Council Members provided comments.

**Closed Session:**

Maryland Annotated Code General Provisions Article §3-305(b) (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

Topic: To discuss with the county's attorneys the legal options that might be available to the County Council in pending litigation.

*Council Member Keegan-Ayer moved to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b): (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation. It was seconded by Council Member Donald and passed 6-0-1 with Council Member Shreve abstained*

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

**Adjourn**

The meeting adjourned at 7:40 p.m.

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Bud Otis, President  
County Council



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**FORM OF STATEMENT FOR  
CLOSING THE MEETING OF TUESDAY, MAY 5, 2015**

**STATUTORY AUTHORITY TO CLOSE SESSION**

**Maryland Annotated Code General Provisions Article §3-305(b):** (7) To consult with counsel to obtain legal advice on a legal matter.

**Motion:**

Upon a motion by Council Member Keegan-Ayer, seconded by Council Member Donald, the Council voted 6-0-1 with Council Member Shreve abstained, to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b): (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

**Time and Location:**

7:45 p.m. – Third Floor Meeting Room, Winchester Hall

**Topic to be Discussed:**

To discuss with the county's attorneys the legal options that might be available to the County Council in pending litigation.

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Bud Otis, President  
County Council

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING  
ON WEDNESDAY, MAY 19, 2015,  
FOLLOWING THE CLOSED MEETING OF TUESDAY, MAY 5, 2015**

**STATUTORY AUTHORITY TO CLOSE SESSION**

**Maryland Annotated Code General Provisions Article §3-305(b)** (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

**Motion:**

Upon a motion by Council Member Keegan-Ayer, seconded by Council Member Donald, the Council voted 6-0-1 with Council Member Shreve abstained, to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b): (7) To consult with counsel to obtain legal advice on a legal matter; and (8) To consult with staff, consultants, or other individuals about pending or potential litigation.

**Time and Location:**

7:45 p.m. – Third Floor Meeting Room, Winchester Hall

**Others in Attendance:**

J. Mathias, M. Chomel, and R. Cherney

**Topic to be Discussed:**

To discuss with the county's attorneys the legal options that might be available to the County Council in pending litigation.

**Action Taken:**

The Council authorized the reimbursement of fees.

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Bud Otis, President  
County Council